

FILED

JUN 17 2022

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DANIEL VERDUZCO,

CASE No. 4:19-CV-01440-JSW

PLAINTIFF

Vs.

TO PRESERVE THE RIGHT ON APPEAL PLAINTIFF OBJECTS TO SEVERAL

MICKEY PRICE ET AL,

DEFENDANT'S GRANT OF SUMMARY JUDGEMENT IN ECF # 75 AS

DEFENDANTS

PLAIN ERROR

JUDGE: HON. JEFFERY S. WHITE

MEMORANDUM OF POINTS AND AUTHORITIES

ARGUMENT I

DEFENDANT'S GRANT OF SUMMARY JUDGEMENT ON SEP. 23, 2021

WAS PLAIN ERROR AS A MATTER OF LAW

*COURT'S MUST, WHEN POSSIBLE, INTERPRET EACH WORD OF A LAW SO AS TO GIVE IT MEANINGFUL EFFECT"; SILVEIRA Vs. LOCKYER,
312 F. 3d. 1052 (9th CIR. 2002). * AFFIDAVITS ARE ADMISSIBLE IN SUMMARY JUDGEMENT PROCEEDINGS [ONLY] IF THEY ARE
MADE UNDER PENALTIES OF PERJURY; MEANING THAT A DISTRICT COURT MAY REJECT UNSWORN DOCUMENTS"; ELDER-KEEP Vs.
ASKSAMIT, 460 F. 3d 979, 984 (8th CIR. 2006).

DEFENDANT'S DEC. 16, 2020 NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGEMENT PREPARED BY MR. BURANICH IS NOT
MADE UNDER PENALTY OF PERJURY, IT IS AN UNSWORN DOCUMENT AND THEREFORE INADMISSIBLE EVIDENCE FOR
PURPOSES OF SUMMARY JUDGEMENT AND SHOULD HAVE BEEN REJECTED BY THE DISTRICT COURT SUA SPONTE. GRANTING
VARIOUS DEFENDANT'S SUMMARY JUDGEMENT ON INADMISSIBLE EVIDENCE WAS PLAIN ERROR. FOR EXAMPLE, ON APRIL
22, 2020 IN A SWORN DECLARATION PREPARED BY COUNSEL BURANICH LITIGATIONS COORDINATOR WENDY REYNOLDS TESTIFIED
THAT TRAINING PROVIDED TO CORRECTIONAL OFFICERS WAS CONFIDENTIAL, THIS OF COURSE WAS PERJURY, AND THIS INFORMATION

1 IS ACCESSIBLE THROUGH PUBLIC RECORDS. TO MINIMIZE THEIR TRAINING N. WATSON AND J. FRISK BOTH TESTIFIED TO NOT BEING
2 A PSYCHOLOGIST OR PSYCHIATRIST. OMITTED FROM THEIR TESTIMONY IS A MATERIAL FACT, IN 2017 N. WATSON HAD 13 YEARS OF
3 SUICIDE PREVENTION TRAINING AND J. FRISK HAD 16 YEARS OF THAT TRAINING. BOTH N. WATSON AND J. FRISK WERE ON
4 NOTICE THAT THEIR CONDUCT VIOLATED THE LAW AND PLAINTIFF'S CONSTITUTIONAL RIGHTS, CAL. PEN. COD. § 5058.4 (a) (d) (1) THRU (5).
5 PLAINTIFF WAS PREJUDICED DUE TO INADMISSIBLE EVIDENCE AND PERJURED TESTIMONY.

6
7 CONCLUSION

8 AT SUMMARY JUDGEMENT ON SEP. 23, 2021 THE DISTRICT COURT HAD A SUA SPONTE DUTY TO REJECT UNSWORN DOCUMENTS. AS
9 A COMPETENT ATTORNEY MR. BURANICH HAD THE PRESENCE OF MIND NOT TO FILE PLEADINGS UNDER PENALTY OF PERJURY BECAUSE DECLARATIONS
10 CITED BY HIM IN FAVOR OF SUMMARY JUDGEMENT WERE DISHONEST, TO PUT IT MILDLY.

11
12 VERIFICATION

13 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. IF CALLED UPON
14 TO DO SO, I CAN COMPETENTLY TESTIFY TO THESE MATTERS. THIS DECLARATION WAS EXECUTED ON THE 5TH DAY OF JUNE 2022
15 AT STOCKTON CALIFORNIA.

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PROOF OF SERVICE BY MAIL
[CCP §§ 1013(a), 2015.5]

STATE OF CALIFORNIA, COUNTY OF SAN JOAQUIN

I am a citizen of the County of SAN JOAQUIN, State of California. I am a citizen of the United States of America. I am over the age of eighteen (18) and not a party to this action. I am a resident of the County of San Joaquin, CDCR# T-45537.

My address is: DANIEL VERDUZCO, T-45537

California Health Care Facility

P.O. BOX 32110

Stockton, CA 95213

On JUNE 05, 2022, I served via United States Mail a copy of the following document(s): TO PRESERVE THE RIGHT ON APPEAL PLAINTIFF OBJECTS TO SEVERAL DEF.'S GRANT OF SUMM. JUDGE. IN ECF #75 AS PLAIN ERROR

The above-noted legal document(s) was placed in a sealed envelope, with postage thereon fully prepaid, addressed to the person at the address indicated below pursuant to California Code of Civil Procedure Section 1013. I placed the envelope or package in a mailbox or other like facility addressed to:


OFFICE OF THE CLERK, U.S. DISTRICT COURT
1301 CLAY STREET, SUITE 400S
OAKLAND, CALIFORNIA 94612

WILLIAM P. BURANICH, DAG
455 GOLDEN GATE AVE, SUITE 11000
SAN FRANCISCO, CALIFORNIA 94102

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. This document was executed on JUNE 05, 2022 in San Joaquin County, California.

DANIEL VERDUZCO

Type or Print Name


Signature